

# Planning Committee

Item  
**8**

Date 25 May 2017

Report of	Head of Professional Services	Author	Mark Russell 01206 506941
Title	Amendment to section 106 in relation to land to the north of Factory Hill, Tiptree (subject to Planning permission 130245)		
Wards affected	Tiptree		

**This report concerns a request for a new legal agreement in relation to Planning permission for 126 dwellings to the north of Factory Hill**

## 1.0 Decision(s) Required

- 1.1 Members are requested to endorse the requested new s.106 agreement, replacing that dated 17<sup>th</sup> September 2013. This is in order to reflect the changed circumstances described below which have come about as a result of Wilkin & Sons' decision not to proceed with building a brand new jam factory to the south of the existing – instead electing to rebuild and refurbish the existing. As a result, there will be no new housing built on the existing factory site. There will be unchanged 126 dwellings on the northern housing land and the legal agreement requires updating to reflect this fact.
- 1.2 In the interests of clarity and given the extensive amount of changes, the document is presented as a stand-alone replacement s.106 rather than as a deed of variation to the previous agreement.

## 2.0 Reasons for Decision(s)

- 2.1 The reason for the decision is so that W&S may proceed with the sale of the northern housing land to provide capital for its on-site factory re-building/re-furbishment. A new s.106 is required to allow W&S to do this without obligation to build a new factory on land to the south of the existing site.
- 2.2 The reasons given by the applicant for the new s.106 are financially-based and full details are given below:

*The project was predicated on the construction of a new factory at a cost of no more than £15m (infrastructure works added a further £10m to this cost) with the bulk of the factory development costs funded through enabling development on two housing sites (the Northern Housing Land and on the existing factory site). The balance of any ancillary expenditure would be financed through bank borrowing and trading cash flow. At this level of cost/risk W&S was confident that the project was viable, deliverable and not a threat to the company's long term security.*

*The original plan was to construct the factory in two phases with the initial phase @ 8000m<sup>2</sup> securing the necessary production capacity for business needs to 2020. As the business continued to grow and the architects gained a better understanding of how the new factory would need to look and work, it became apparent that the original plan for phase 1 was undersized by more than 30% which had a direct impact on total cost. After some painful*

reflection the phase 1 cost was deemed to be too high and had the potential to leave the business exposed in the event of adverse trading movements. It was at this point that W&S reluctantly took the decision not to progress with construction of the planned new factory.

The requirement for an enhanced factory however remains the same, the business continues to expand and the need for renewed/refreshed infrastructure remains paramount. It is with this in mind that W&S has now developed a plan for refurbishment/rebuild of its existing facilities on its current site. Unlike the plan for building on a new factory site, this revised plan sees the business rebuilding and refurbishing on site over a much longer timescale and according to its ongoing means. While much of the ancillary infrastructure works (water treatment plant, roundabout, services, drains) has already been completed or is nearing completion, the next phase of refurbishment and build is expected to be completed by the end of 2020 at significant cost. W&S will invest the money secured from the sale of the Northern Housing Land in the rebuilding and refurbishment works. Beyond this, the project in its entirety stretches to 2027 and will see W&S investing on a piecemeal basis as trading cash flow permits.

Based on current valuations there is expected to be a net gain from the sale of the Northern Housing Land of £5.5m (this is after the discharge of all sec 106 obligations and includes the cost of setting out the Public Open Space). The infrastructure costs for the refurbished/rebuilt factory to date show a spend of £3.6m beyond which, a further £2.85m is authorised to the end of 2017. Thereafter, work continues with another £3.15m to be invested (subject to the sale of the Northern Housing Land) out to 2020 with a further £13.5m out to 2027 subject to continued successful trading.

The Brexit vote on the 23<sup>rd</sup> June 2016, lends further weight to W&S' cautious approach, particularly given longer term market uncertainty. W&S recognises that factory improvements are essential and that a programme of delivery needs to start now given the enabling infrastructure works that have already been undertaken at significant cost in recent years. Having assessed the options W&S has concluded that the lower risk approach in delivering these requirements is through a longer phased development on the existing site with lower borrowing commitments.

This still enables W&S to realise a capital receipt from the sale of the Northern Housing Land (though not now from housing on the existing factory site) which will assist early delivery up to 2020 and will include a new Energy Centre and Production Hall at a footprint in excess of 3500m<sup>2</sup> and a refurbished packhouse at 600m<sup>2</sup> all of this while maintaining full operations on the rest of the site.

This is all very much in line with the requirements of the original planning permission which required receipts from the sale of the land for housing to be re-invested into the business. Further commitment beyond 2020 will then be subject to on-going trading cash flow. If current momentum is maintained, financial projections show that W&S will be able to deliver the full programme of works by 2027 which will ultimately result in up to a further 80 jobs on the site.

Wilkin & Sons is extremely disappointed that this approach will not present the opportunity to provide a landmark building for the company and Tiptree. However, the overriding priority is to safeguard the operations of the business and its employees and to react accordingly when market conditions dictate. The company remains committed to its operations in Tiptree which supports local people and the local economy and considers that this is the most effective way forward to secure its future.

### **3.0 Alternative Options**

- 3.1 If the new s.106 is not endorsed by the Council, W&S will be faced with a series of choices. One is to build the factory to the south of the existing, as per the original agreement. It has given reasons why it would not wish to do this, therefore it is reasonable to presume that this will not occur.
- 3.2 It may, alternatively, decide to do nothing. However, it has highlighted “dated infrastructure and inefficiency of operating on the site.” Therefore, it is reasonable to presume that this will not occur either.
- 3.3 The third option is that W&S may elect to move some or all of its activities elsewhere. The company already has storage facilities at Beckingham Business Park and operations in Witham (in the Maldon district and the Braintree district respectively). Whilst the company does not appear to wish to relocate, given that the other two options at paras 3.1 and 3.2 do not appear to be realistic, there is a chance that this could occur entirely or in part. However, as highlighted in para 2.2 the company has already made considerable financial commitment to upgrading and refurbishing the existing factory and stresses its continuing commitment to its long term future in Tiptree

#### **4.0 Supporting Information**

- 4.1 In the next five years Wilkin & Sons (W&S) states that it will spend a sum which is claimed to be far in excess of the likely net receipt to the company from development at the northern housing land. This will be spent on refurbishment and enhancements to the existing factory in order to achieve the aims of the Tiptree Jam Factory Plan (adopted February 2013) and to secure the long term future for the company in Tiptree and therefore long term employment prospects in Tiptree.

#### **5.0 Proposals**

- 5.1 The new Schedule 1 has been amended from the original to reflect the fact that there will no longer be a new factory site to the south of the existing. It sets out works that will be carried out at the existing factory site prior to occupation of any dwelling on the northern housing land (Phase 1 Works), works that will be carried out at the existing factory site by summer 2018 (Phase 2 Works) and works that will be carried out at the existing factory site by summer 2021 (Phase 3 Works).
- 5.2 Financial contributions in the proposed agreement are 52% equivalent of the figures in the original agreement to reflect the fact that housing numbers on the northern housing land are 52% of the previously proposed total housing numbers (which included housing on the existing factory site which will no longer be built).
- 5.3 The amount of open space and the number of allotments has not been changed even though they both exceed what would normally be required for 126 dwellings.
- 5.4 The sum of money to equip the play area has not been reduced. Even though the woodland, reservoir and Factory Hall will remain in W&S’s ownership, the commuted sum for future maintenance has not been reduced to reflect that fact — it has simply been reduced to 52% of the previous figure due to the lower number of housing units. It is for future maintenance of the open space allotments and play area
- 5.5 References to the Woodland and the Reservoir have been removed as W&S will retain ownership of these areas.
- 5.6 References to the “Hall Road Agreement” (a linking agreement relating to the International Farm Camp application) have been removed.

- 5.7 References to the Factory Hall have been removed as this will continue to form an integral part of the factory.
- 5.8 References to the Southern Open Space and the Wilkin Open Space have been removed as they do not relate to the Northern Housing Land and, in any event will not now be provided.
- 5.9 The amount of on-site Affordable Housing is to increase by **FOUR** units. The housing for W&S employees is reduced by four units to make provision for the extra four affordable housing units. Whilst the Council notes and welcomes the continued provision of housing for employees, this does not count towards the Affordable Housing provision.
- 5.10 The land that was to be made available as a dental surgery is instead be made available for more affordable housing subject to the grant of appropriate planning permission
- 5.11 All triggers have been altered so that they all now relate to Northern Housing Land.
- 5.12 All indexation will run from September 2013 (the date of the existing agreement).
- 6.0 Strategic Plan References**
- 6.1 A key aim of the Strategic Plan (2015-18) is to “Promote Colchester to attract further inward investment and additional businesses, providing greater and more diverse employment and tourism opportunities.”
- 6.2 On that basis, the Council should encourage existing businesses to remain within the Borough and to thrive and expand, as is the case here.
- 7.0 Consultation**
- 7.1 Housing: The Housing Strategy Team has reviewed the amendments and, whilst noting that the allocation is still below the Policy threshold, does not object to the new s.106.
- 7.2 Tiptree Parish Council: TPC has been in discussions with the Council and with W&S, culminating in a final meeting on 16<sup>th</sup> May 2017 between your Officers and TPC’s representatives, where the latter gave verbal agreement to most matters, but still wished to explore one item with their Members. TPC will have a full meeting on Monday 22<sup>nd</sup> May and its comments will be reported on the amendment sheet.
- 8.0 Publicity Considerations**
- 8.1 Liaison and discussions with TPC.
- 9.0 Financial Implications**
- 9.1 None, other than Officer time in overseeing this matter.
- 10.0 Equality, Diversity and Human Rights Implications**
- 10.1 None
- 11.0 Community Safety Implications**
- 11.1 None
- 12.0 Health and Safety Implications**
- 12.1 None
- 13.0 Risk Management Implications**
- 13.1 None